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8	BEFORE THE
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Statement of Issues Case No. 2012-88
12	Against: STATEMENT OF ISSUES
13	KATHRYN SUE NICHOLS 2724 Silver Oak Drive
14	Chico, California 95973
15	Respondent.
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17	Louise R. Bailey, M.Ed., RN ("Complainant") alleges:
18	<u>PARTIES</u>
19	1. Complainant brings this Statement of Issues solely in her official capacity as the
20	Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
21	Affairs.
22	2. On or about November 29, 2010, the Board received an Application For Licensure By
23	Examination from Kathryn Sue Nichols ("Respondent"). On or about November 26, 2010,
24	Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
25	representations in the application. The Board denied the application on March 4, 2011.
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STATEMENT OF ISSUES

JURISDICTION

- 3. Pursuant to Business and Professions Code ("Code") section 485(b), on or about March 4, 2011, Respondent's application was denied and she was notified of the right to a hearing to appeal the denial.
- 4. On or about March 10, 2011, Respondent requested a hearing to appeal the denial of her application.

STATUTORY PROVISIONS

- 5. Code section 2736(a)(3) provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under Code section 480.
- 6. Code section 2761(a) states, in pertinent part, that the board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct.
 - 7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.
 - 8. Code section 480 states, in pertinent part:
- (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
- (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
- (3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
- (B) The board may deny a license pursuant to this subdivision only if the act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

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BACKGROUND INFORMATION

9. In or about 2004 and 2005, while employed as a medical office assistant at the offices of Dr. Jin Soofi and Dr. Francis McDermott, Respondent unlawfully called-in fraudulent prescriptions to various pharmacies to obtain controlled substances for personal use. In July 2005, a pharmacist noticed discrepancies regarding the prescriptions and contacted authorities.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Dishonesty, Fraud or Deceit)

Respondent's application is subject to denial under Code section 480(a)(2), in that 10. Respondent committed acts involving dishonesty, fraud or deceit with the intent to substantially benefit herself, as more particularly set forth above in paragraph 9.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Committed Acts Which If Done By A Licentiate)

11. Respondent's application is subject to denial under Code section 480(a)(3), in that she committed acts which if done by a licentiate of the profession would constitute grounds for discipline, as more particularly set forth above in paragraph 9. Such conduct would constitute grounds for discipline under Code section 2762(a) (obtained and possessed, in violation of law, controlled substances, and self-administered controlled substances).

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- Denying the application of Kathryn Sue Nichols for a Registered Nurse License;, 1.
- 2. Taking such other and further action as deemed necessary and proper.

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LOUISE R. BAILEY, M.ED., RN

Executive Officer

Board of Registered Nursing

Department of Consumer Affairs State of California

Complainant-

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